

IN SENATE OF THE UNITED STATES.

MARCH 20, 1848.

Submitted, and ordered to be printed.

Mr. FELCH made the following

REPORT:

[To accompany bill S. No. 175.]

*The Committee on Pensions, to whom was referred the petition of John H. White and other children of Moses White, deceased, praying that a certain amount of invalid pension money may be refunded, report:*

That Moses White served as a Captain in the revolutionary war, and his name was placed on the list of invalid pensioners in consequence of disability incurred in the service. While in the receipt of his pension as an invalid the act of the 15th May, 1828, was passed. Under the provisions of this law he was entitled, as one of the surviving officers of the revolution, and without regard to his disability, to receive a pension, which was to commence on the 3d day of March, 1826, and to continue during his natural life. By the second section of this act it is provided that wherever any of said officers has received money as a pensioner since the 3d March, 1826, the sum so received shall be deducted from what said officer would otherwise be entitled to under the first section of the act.

The amount received by Captain White for his invalid pension, from the day last mentioned to May 31, 1830, was, consequently, deducted from the amount to which he would otherwise have been entitled under the law of May 15th, 1828.

The terms of the second section of this law are probably sufficiently broad to authorize the deduction of money received under the invalid pension act; but it may well be doubted whether it was intended to apply to such cases. The grant of pensions to the officers and soldiers of the revolution, by the act above mentioned, is founded upon the general meritorious services of all engaged in that struggle, and not upon the sufferings or disabilities of the individual receiving the annuity. The invalid pension is founded on a different principle, and is in the nature of a compensation for bodily suffering, or incapacity to labor, occasioned to the individual by wounds or other injuries received in the public service. It can hardly be supposed that the law of May 15th, 1828, was intended

to annul all distinctions and to give to the soldier, who had returned from service with unimpaired health and vigor, the same annuity that was bestowed upon the mutilated and disabled.

The presumption that Congress never in fact contemplated the deduction of an invalid pension, is confirmed by a subsequent act, approved May 31st, 1830, which expressly provides that the second section of the act of May 15th, 1828, shall not be construed to embrace invalid pensioners, and that the pension of invalid soldiers shall not be deducted from the amount receivable by them under the last mentioned act.

The spirit of this provision applies, in the opinion of the committee, to the petition here presented; but the act has been held to be prospective only in its operation, and that the department could not refund any money that had been deducted prior to May 31, 1830. Congress alone can afford a remedy.

A case analagous to that before us was presented to Congress in 1836, by the heirs of Richard Anderson, and an act was passed on the 25th of June, in that year, granting the amount which had been deducted at the Pension Office.

The committee, believing that the relief asked should be granted to the heirs-at-law of Captain White, now deceased, herewith report a bill for that purpose.